An Independent Study of the Administration of Involuntary Non-Emergency Medications Under Act 114 (18 V.S.A. 7624 et seq.) During FY 2021

Report to the Vermont General Assembly

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Joy Livingston, PhD
Joy Livingston@FlintSpringsAssociates.com

Donna Reback, MSW, LICSW
DonnaReback@FlintSpringsAssociates.com

402 Fletcher Farm Road, Hinesburg, VT 05461
www.flintspringsassociates.com
(802) 482-5100

EXECUTIVE SUMMARY

The Vermont statute governing administration of involuntary nonemergency psychiatric medications to clients of the public mental health system committed to the care and custody of the Commissioner is 18 V.S.A. 7624 et seq. – referred to in this report as Act 114. The statute requires two annual assessments of the Act's implementation, one conducted by the Department of Mental Health (DMH) and a second conducted by an independent reviewer. The following report summarizes Flint Springs Associates' independent assessment, providing a review of implementation during FY22 (July 1, 2021, through June 30, 2022).

This report examines implementation of Act 114 at designated hospitals responsible for administering involuntary psychiatric medications under Act 114 during FY22.

During FY22, DMH reported that 51 petitions were filed requesting orders for nonemergency involuntary medication under the provisions of Act 114 for 47 different individuals. Petitions were sought by physicians at four of the hospitals designated to administer the medications and sent through the Attorney General's DMH office to the court. Of those 51 petitions, 36 (71%) were granted, 10 (20%) were dismissed, three (6%) were denied, and two (3%) resulted in an OH.

In compliance with statutory requirements for the annual independent assessment, this report provides information on:

- Implementation of Act 114.
- Outcomes associated with implementation of the statute.
- Steps taken by the Department of Mental Health to achieve a mental health system free of coercion.
- Recommendations for changes.

Key Findings

Among the findings presented in this report, this year's assessment found that:

- Documentation indicates that staff at four hospitals administering medications under Act 114 in FY22 were generally aware of the provisions as shown by documentation of adherence to most Act 114 provisions. Hospital staff feel that the process leading to involuntary medication should move as quickly as possible. They believe that individuals for whom Act 114 petitions are filed suffer on many levels when not receiving psychiatric medication as soon as possible.

- Mental Health Law Project (MHLP) believes its legal representation has been effective in:
  - Addressing the desires of patients by reducing medication dosages.
  - Eliminating certain medications in order to avoid contraindications with other medications.
  - Allowing an alternative method of medication administration that is amenable to the patient.

- The number of petitions filed for involuntary medication under Act 114 was a bit lower in FY22 (n=52) than in FY21 (n=65) and FY20 (n=68).

- Petitions were filed a bit longer after admission in FY22 than in past few years: 51% were filed within 30 days and 21% within 30-60 days of admission, or, on average, 61 days from admission to petition filing, as compared to 34 days in FY21. Once the petition was filed, a decision was reached within an average of 18.4 days as compared to 12 days last year. The average time from admission to an Act 114 order was 80 days in FY22, as compared to 46 days in FY21, ending the trend toward decrease in time from admission to Act 114 order over the past several years. This assessment focuses on tracking time between admission, filing of petition, and court decision. It does not consider factors which may influence the timeline, such as changes in clinical practice, Vermont laws, DMH data collection strategies, or additional factors which may influence the implementation of Act 114.

- In FY22, length of stays for persons receiving Act114 medication increased as compared to recent years. On average, patients under Act 114 orders in FY22 were discharged from psychiatric inpatient care, on average, 116 days (approximately 4 months) from admission, and 67 days (about 2 months) after the Act 114 order for medication was issued.

- Five persons who received Act 114 medication during FY 2022 provided input regarding their medication experience. The majority of respondents reported:
    - *they were not asked whether they wanted a support person present while receiving medication.*
    - *they had little or no control over what medication was ordered, how much was ordered or how it was delivered.*
    - *they did not feel supported or respected by hospital staff during the experience of receiving Act 114 medication.*
    - the state did not make the right decision in ordering Act 114 medication for them.

Recommendations

Flint Springs Associates offers the following recommendations:

Hospital Practices

FSA recommends that staff at hospitals administering Act 114 medication continue efforts to help patients understand the reasoning behind the decision to seek an order for involuntary medication and to invest time in talking with patients about the process and available options.

To maintain clear records for documenting implementation of Act 114 in accordance with provisions of the statute, all hospitals have followed past FSA recommendations that each hospital maintain an electronic file or section within the electronic file for persons receiving medication under Act 114. This practice should continue.

Annual Act 114 Assessment

FSA recommends that the following steps continue to be used in future assessments of Act 114:

- Provide a financial incentive for the participation of individuals for whom Act 114
- Given the similar content to assess the implementation of Act 114 protocols required by the legislature through two reports, one generated by DMH and the other by an external entity, the legislature should clarify the purpose of having an internal and an external, independent report.

INTRODUCTION

The Vermont statute governing administration of involuntary nonemergency psychiatric medications to clients of the public mental health system committed to the care and custody of the Commissioner is 18 V.S.A. 7624 et seq. The statute requires two annual assessments of the act's implementation, one conducted by the Department of Mental Health (DMH) and a second conducted by an independent reviewer. This report will refer to the statute as Act 114. Implementation of Act 114 commenced in late 2002.

This independent assessment report provides a review of implementation during FY22 (July 1, 2021, through June 30, 2022). The report also summarizes feedback from:

- 5 individuals who received an Act 114 order in FY22.
- 1 individual on whom an Act 114 application was not approved (e.g., either dismissed, denied or withdrawn).

As a result of the petitions filed during FY22, court orders for administration of involuntary nonemergency psychiatric medication under the provisions of Act 114 were granted for 45 individuals.

The Commissioner of Mental Health has designated five hospitals to administer medications under Act 114: Brattleboro Retreat, Central Vermont Medical Center, Rutland Regional Medical Center, University of Vermont Medical Center, and Vermont Psychiatric Care Hospital. CVMC has infrequently administered medication under Act 114. During FY22, four of the five hospitals administered medication under Act 114, in FY22 CVMC did not.

This report, in compliance with statutory requirements for the annual independent assessment, provides the following information:

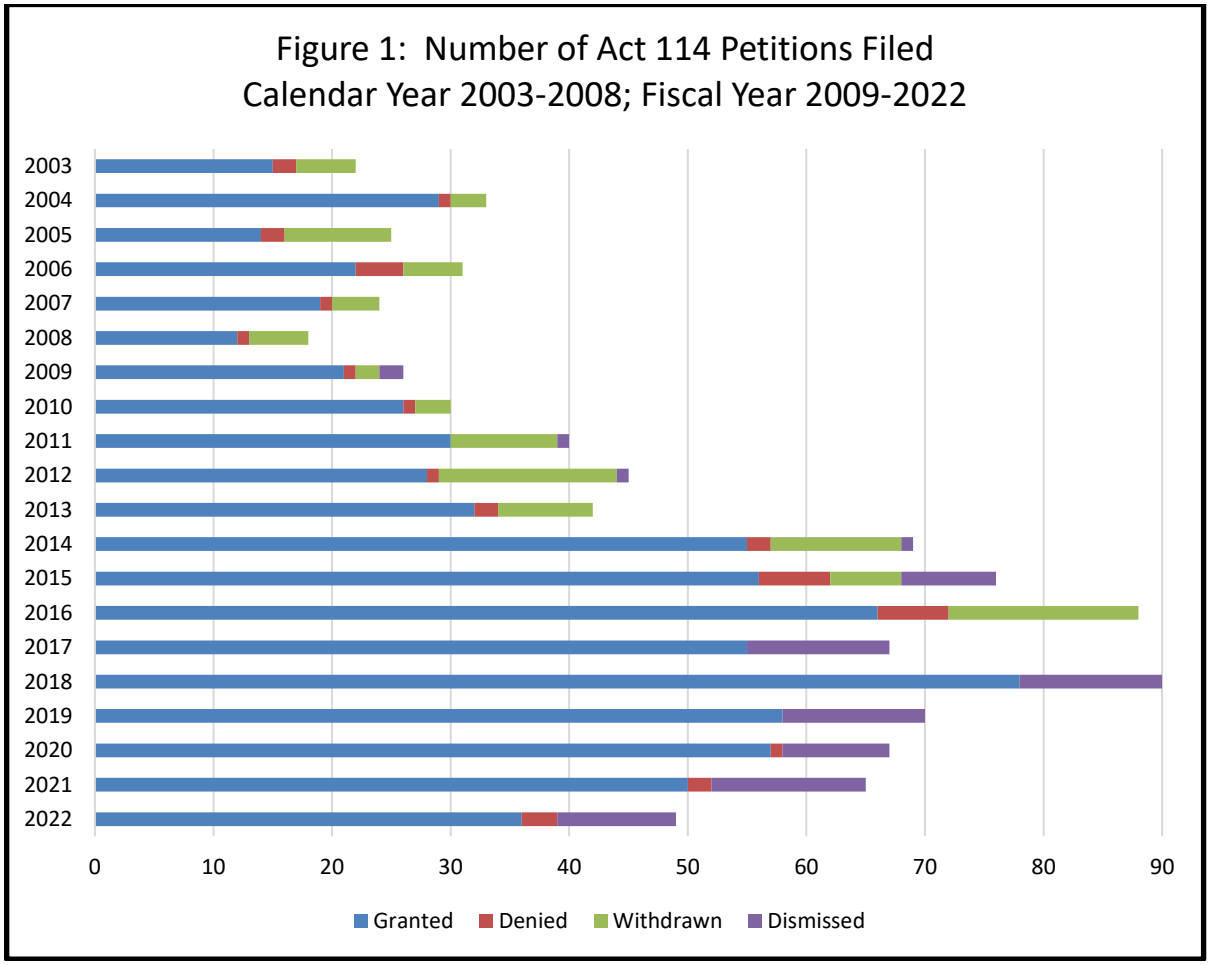
Section 1: The performance of hospitals in the implementation of Act 114 provisions, including surveys of staff, interviews with Mental Health Law Project and Vermont Psychiatric Survivor Patient Representatives, review of documentation, and interviews with persons involuntarily medicated under provisions of Act 114.
Section 2: Outcomes associated with implementation of Act 114.
Section 3: Steps taken by the Department of Mental Health to achieve a mental health system free of coercion.
Section 4: Recommendations for changes in current practices and/or statutes

Flint Springs Associates (FSA), a Vermont-based firm advancing human-services policy and practice through research, planning and technical assistance, conducted this assessment. Flint Springs' Senior Partners, Joy Livingston, Ph.D., and Donna Reback, MSW, LICSW, gathered the required information, analyzed the data, and developed recommendations reported here.

Section 1: Performance Implementing Provisions of Act 114

During FY22, DMH reported that 51 petitions were filed requesting orders for nonemergency involuntary medication under the provisions of Act 114 for 47 different individuals. Petitions were sought by physicians at four of the hospitals designated to administer the medications and sent through the Attorney General's DMH office to the court. Of those 51 petitions, 36 (71%) were granted, 10 (20%) were dismissed, three (6%) were denied, and two (3%) resulted in an OH.

Figure 1 provides information on the number of petitions for court orders that were granted, denied, withdrawn, or dismissed since the initial implementation of Act 114 through FY22. Courts have granted most petitions. The number of petitions filed increased through 2016, with a decrease in 2017, increase in 2018, and then decrease over the past four fiscal years.



Staff Feedback on Implementing Act 114 Protocol

To gather input from a wider range of staff members, an online survey was developed in FY17 and has been used since; prior years we relied on interviews with staff which were often difficult to schedule and conduct. Each hospital was responsible for distributing the survey link to staff involved in administering medication under Act 114.

As shown in Table 1, 54 staff members responded to the survey. Nurses were most often represented, accounting for 70% of the survey sample. The three "other" positions at VPHC were psychologist, pharmacist, and psychiatric admissions specialist.

Table 1: Act 114 Survey Respondents

Position at Hospital	All Respondents		By Hospital			
	Frequency	Percent	Retreat	RRMC	UVMMC	VPCH
Physician/Psychiatrist	4	7%	0	2	2	0
Nurse	38	70%	6	10	14	8
Social Worker	1	2%	0	0	0	1
Psychiatric technician/assistant	8	15%	0	8	0	0
Other	3	6%	0	0	0	3
Total	54	100%	6	20	16	12

Act 114 Implementation Training

About two-thirds of the survey respondents (63%) reported that they had received formal training; most of these respondents (n=25, 66%) were nurses; the remaining three respondents were in "other" positions. Informal training was reported by 29% of the respondents. Past assessments found similar results, particularly as Act 114 is regularly included in annual training for nurses.

Table 2: Training Staff Receive on Protocols for Administering Medication under Act 114 By Position at Hospital

Training on Protocols for administering medication under Act 114	Position at hospital				Total
	Doctor	Nurse	SW	Psych Tech	
No training at all	0	0	0	0	0
Informal training through other staff members	2	11	1	1	15
Learn through completion of required forms	0	2	0	2	4
Formal training through orientation/other	2	25	0	5	32
Total	4	38	1	8	51

Patients' Rights

Staff were presented a list of steps taken to ensure that patients understand the process under Act 114 and are fully informed of their rights. These steps have been reported by staff in previous assessment interviews.

As shown in Table 3, nearly all staff report that most of these steps are utilized. Least often, patient advocates are asked to offer explanations.

Table 3: Steps Taken to Ensure that Patients Understand Process and Rights under Act 114

Steps taken	All Respondents		By Hospital			
	Frequency	Percent	Retreat (n=6)	RRMC (n=20)	UVMMC (n=16)	VPCH (n=12)
Physician meets with patient to review all of the above	49	91%	5	19	13	12
Members of the treatment team review the above information with the patient	44	81%	4	17	13	10
Written information is provided to patients	43	80%	5	14	14	10
Patients receive contact information for attorneys	42	78%	4	16	13	9
Patients are encouraged to contact their attorney	35	65%	2	13	10	10
Patient advocates are asked to explain the process, reasons, rights, and consequences	21	39%	0	13	5	3

Staff, in past years' interviews, have often identified several challenges that arise when they attempt to provide patients with information about the Act 114 process. Thus, the survey asked, "How do you, and the others on the treatment team, respond to challenges that arise when providing patients with information about their rights and the Act 114 process?"

One physician responded to the question with the following answer:

- *Calmly provide the information, even if it is in the face of shouting, and provide verbally and in writing in hopes that the patient will be able to take in one form or other.*

Nurses identified several strategies for responding to challenges. Most often (n=7), these approaches focused on providing information, about the reasons for medication, the court order process, and the medication. Some example comments

- *We work to collaborate on an explanation before approaching the patient and then work to help the patient simply understand the situation first before getting into details.*
- *Attempt to explain in simplest terms*
- *Keep conversations simple, don't use legalese.*
- *Remain calm, explain the process. Assist the patient in understanding.*

Five nurses said the treatment team worked on problem solving. Examples include:

- *Ongoing communication with treatment team*
- *First analyze the situation that is creating challenges and then responding appropriately per VPCH policy/MD orders*
- *Barriers to understanding are explored. Critical thinking and clinical judgement are used to brainstorm ways to reach the patient and try to ensure their understanding.*

Five nurses spoke to a "patient centered" response, for example:

- *We provide them the information they request.*
- *Provide honest, up front answers to questions and listen.*
- *Try to maintain open communication*

Four nurses said they referred to patient advocacy, for example:

- *We provide them a booklet (Vermont Disability Rights) to ensure patients have access to information, are shown the bulletin board that lists patients' rights, and provided paperwork upon admission. They are encouraged to use a phone and are made aware they will never be refused a phone call to make the appropriate calls.*
- *I offer them patient advocates number, any legal documents and notify the rest of the treatment team.*

Finally, two nurses addressed the impact of patients' mental health issues:

- *With patience. Patients are ill for far too long prior to getting court ordered medications. We see it all too often patients get better within days or weeks of taking medication. We look forward to the positive outcomes.*
- *The patient is often too mentally I'll to listen and grasp the information about this. They have, most of the time, been refusing medication in the first place so they are already closed to the idea that med administration will be forced. The only solution I can think of is waiting for a calm moment and addressing it with more than one person on the treatment team.*

Psychiatric technicians said they sought to provide patients with information, for example:

- *By referring them to their provider or nurse while giving them information on how the process works*
- *Explaining the process to the best of the ability of the patient to understand. Patients are often unable to process the actual process of things…It makes it difficult to know if the patient is capable of understanding the steps regardless of how many times they are told or explained.*

One psychiatric technician said, "*Safety is the biggest concern when patient is at risk of harming self or others.*"

Responses from respondents in other positions included:

- *We sit with them, having a frank and open discussion. Discuss alternatives. Validate their experience.* (Psychologist)
- *We offer information, to be provided verbally and/or written; usually multiple attempts are made to ensure full understanding of what this means. We also attempt to select medications with patient(s) input, when appropriate.* (Pharmacist)
- *Provide information and documentation that supports the Medication being offered. And being available for medication discussions, side effect discussion and alternatives.* (Psychiatric Admissions specialist)
- *Oftentimes the questions is best addressed by the patient's attorney.* (Social Worker)

Alternatives to Medication

The survey asked respondents to "describe any alternatives to involuntary psychiatric medication offered to patients." The following summarizes responses by hospital.

Brattleboro Retreat: Of five responses, one said there were no alternatives, two referred to offering opportunities for patients to take medication voluntarily, including some control of when the patient takes medication. Two responses focused on a variety of other therapeutic approaches:

- *Quiet time, voluntary and involuntary in Quiet Room. Give them space. Sensory items, music, distraction. Emergency involuntary psych meds because they usually need something after they harm themselves or others.*
- *Relaxation techniques, meditation, mindfulness, OT groups, art, physical exercise, healthy food.*

Rutland Regional Medical Center: Of 15 responses, one said there were no alternatives and three spoke to voluntarily taking medication. Three respondents mentioned PRN medications, for example:

- *Some patients come with PRN meds that they can take or had been taking prior to their admission in the hospital. These are offered on a case to case basis if available.*

A range of modalities and approaches were mentioned by six respondents. For example:

- *We offer all alternatives possible.*
- *Diversional activities, engagement, advanced observation, limit setting, negotiation, environmental awareness, seclusion, restraints.*
- *Music, videos, quiet space, exercise room*
- *Redirection, change of venue, offer coping skills/ tools*
- *music, activities, exercise, talking*
- *Other than food, drink, and warm blankets there is only distractions like music and tv we can offer.*

UVM Medical Center: Three of 12 responses said there were no alternatives; three identified voluntarily taking medications as an alternative. Multiple therapeutic approaches were identified by six respondents, including:

- *Use of the comfort room, the exercise room, the porch, therapeutic interaction as tolerated, calling a friend or family member or advocate, group therapy or 1:1 time with a therapist.*
- *Exercise, music, 1:1 interaction, engage in distractions (art, walking, games), fresh air.*

Vermont Psychiatric Care Hospital: Five of 10 respondents said the alternative to involuntary medication was voluntarily taking medication, including multiple offers of the medication. The other five responses outlined a range of alternatives, for example:

- *Going out to courtyard, quiet spaces/room offered, different programs & activities*
- *Review/teach use of positive coping skills. Be a good listener.*
- *Voluntary time-out, going out to the yard, getting off of the unit, going to off-unit groups, watering the garden, therapeutic conversation, games, working out, distraction (music, TV, visualization, etc.), meditation, the list goes on forever.*
- *Seclusion, 4-Point Restraint, Alternatives to deal with the stressor causing the need for Emergency Involuntary Medications. Doing what is necessary to maintain Dignity and Trust in the Patient Staff relationship.*
- *Participating in groups, use of computers or tablets, time spent outside or in the greenhouse, sensory rooms, massage chair*

The survey asked a forced-choice question: What would be needed to provide more extensive alternatives to involuntary psychiatric medication? As shown in Table 4, about half of the respondents endorsed a range of needs, particularly more programs/activities.

Table 4: Needed to Provide more Extensive Alternatives to Involuntary Medication

	Frequency	Percent
More programs and activities	40	77%
More staff	31	60%
More private quiet spaces	31	60%
More sensory equipment	30	58%
Outdoor spaces	24	46%

Additional alternatives to medication were offered by five respondents, these included:

- *Build out infrastructure in the community so court ordered meds could be administered outpatient.*
- *More staffed transitional and permanent housing.*
- *Double occupied rooms are not a good idea for any psychiatric patient.*
- *More opportunities to self sooth, and spaces to be able to work out the conflicting ideations in a safe and responsible way.*
- *Strong, consistent, individualized behavioral therapy with specific plans that staff can follow with strong boundaries set for behaviors that are dysfunctional or harmful - behaviors that bear consequences and aren't just tolerated.*

Two respondents explained in more detail why more staff were needed:

- *On our unit it states all the things we have but not EVERY patient can utilize the spaces. We cannot take patients to the atrium or to the gym without adequate staff. Then what ends up happening is the patient is unable to utilize the options and alternatives because there is not enough staff. As a staff at RRMC it is utterly frustrating to tell a patient that is struggling that could use the gym to help dispense their energy in a more productive manner than what often occurs. There seems to be nothing to help patients that are experiencing crisis even though there are signs stating we have a gym (that no one can use because there is never staff unless its first shift).*
- *I work mainly on ICU; patients are often extremely upset due to the behaviors of other patients and cannot escape the over stimulus that is happening. The space is small and confined. Patients have limited access to outside, especially when there is not enough staff to provide trips to our atrium where the patients can get fresh air. The patients are bored, there are zero activities on ICU or not enough staff to provide activities if we could.*

Five respondents explained why they believed there were not viable options to medication, for example:

- *A severe psychotic episode is a brain disease that can only be treated with antipsychotic medications developed by science…There may be personal examples of people who were treated with antipsychotic medications and who could have improved with alternative methods, but these people likely had mental issues other than psychosis.*
- *Sometimes, involuntary medications are just what is needed. Of course, meds are always the last resort but usually by the time a person reaches VPCH, meds are the only option left. I wish more people understood that. No one wants to force meds on someone, but I've also only ever met one person who was able to discharge from VPCH without taking medications.*
- *Medicine PLUS alternative therapies are the key to successful treatment.*
- *If a patient is psychotic, violent there really isn't any other option that keeps all staff safe*

Benefits of Act 114

The survey presented a list of four possible benefits of Act 114 – drawn from staff responses in previous years. Staff most often felt the benefit of Act 114 was that patients not willing to take medications received them (see Table 5).

Table 5: Benefits of Act 114

Benefits of Act 114	Strongly agree	Somewhat agree	Not sure	Somewhat disagree	Strongly disagree	Total
Patients not willing to take medication receive medication	27 52%	18 35%	3 6%	4 8%	0 0%	52 100%
It provides a check on decision for involuntary medication	25 48%	21 40%	4 8%	2 4%	0 0%	52 100%
It protects the legal rights of patients	21 40%	14 27%	13 25%	3 6%	1 2%	52 100%
It provides a consistent process across all hospitals	15 29%	14 27%	21 40%	2 4%	0 0%	52 100%

Additional comments were offered as follows:

- *I appreciate the process, even if burdensome. It is some consolation when providing involuntary treatment to know that it has passed the additional review and is not a unilateral individual decision.*
- *It protects the legal rights of patients. Although this seems paradoxical, it isn't. Everyone should have the right to live the best life they can, given their disability. When you do not have the capacity to make beneficial judgements about your life and health, your rights to a fuller life are deprived. If I have a medical problem, I have a right to treatment that in my judgement I can fight for. The mentally ill need advocates who will fight for them. And those advocates should be a team who can provide checks and balances to ensure that the best treatment is given and enforced.*
- *It is unfortunate that some severely psychotic patients are not treated with antipsychotic medications as soon as they are admitted to the hospital because the delay causes the disease to progress and the patient experiences trauma that could have been avoided if they were treated according to the very well-known medical standards of care. The current Vermont law is causing a delay in treatment. The delay is against the evidences of science and causes unnecessary harm to severely psychotic patients. Every patient should receive appropriate evidence-based medical standard of care on the first day of their hospitalization.*

Challenges Posed by Act 114

The survey also asked about challenges posed by Act 114, again using a forced-choice list developed from previous staff interviews. The primary challenge identified by staff in this survey, and in every previous assessment, was the delay between admission and receipt of medication (see Table 6).

Table 6: Challenges posed by Act 114

Challenges	Strongly agree	Somewhat agree	Not sure	Somewhat disagree	Strongly disagree	Total
Results in long delays before patients receive psychiatric meds	41 80%	9 18%	1 2%	0 0%	0 0%	51 100%
Oversight is provided by judges not trained in psychiatry	31 61%	10 20%	7 14%	2 4%	1 2%	51 100%
It creates adversarial relationship between providers and patients	17 33%	16 31%	7 14%	7 14%	4 8%	51 100%
Court orders are too restrictive to allow adjusting medications	15 29%	14 27%	12 24%	9 18%	1 2%	51 100%

Additional comments offered by respondents are outlined below:

- *Judges that are not with these patients, do not see what we see, do not see the way the patient struggles or how it saves patients, should not have any say on these medications. I have seen patients turned down from a judge who has no experience in psychiatry or with the patient (because he read a blog, that wasn't even written by a nurse who spends all their time with the patient) and that patient loses their life because they can't get the help they need and are sent from hospital to hospital or leave to a motel to just struggle.*
- *Judges have no medical training, nor relationships with facilities or PATIENTS who linger in a facility without treatment for MONTHS.*
- *I'm not convinced that oversight by a judge is problematic. Treating someone against their will poses complex problems with dimensions beyond the medical issues. In my limited experience judges seem to have been able to give adequate consideration to the clinical issues.*
- *Need more flexibility with medications regarding court order.*
- *It creates adversarial relationships at first but then once the patient gets treated properly the trust is built in the relationship and it becomes better.*

The survey asked staff if recent legislation that allows the courts to hold one hearing for both commitment and involuntary non-emergency medication for some patients has reduced the time it takes for many patients to receive medication under Act 114. As shown in Table 7, 37% of the staff felt that the option had reduced time for many patients, while 20% were not sure if the option had an impact and 43% felt it did not reduce time to receiving medication.

Table 7: The Option for Hearing on Commitment and Act 114 Simultaneously Has Reduced Time for Many Patients to receive Medication

	Frequency	Percent
Strongly agree	7	13%
Somewhat agree	13	24%
Not sure	11	20%
Somewhat disagree	7	13%
Strongly disagree	16	30%
Total	54	100%

In addition, 12 staff added comments noting that even with the combined hearings, the process "still takes too long." Examples of these comments include:

- *I am not sure what the process was prior for wait time, however, wait time for patients that desperately need care is astronomically long as we watch patients suffer and deplete.*
- *During Commitment Hearing, there is not enough Evidence that the patient requires Court Order Medications and Patient still waits Months before being able to Stabilize and make informed decisions regarding Medication Acceptance.*
- *I think the process takes too long to wait as patients that need medicine to begin the stabilization of their baseline suffer while waiting for anyone to proceed with the actual process…They refuse to eat, shower and some will isolate and not leave their rooms for the weeks while they wait. This is not healthy or safe for the patient at all. Our hands are tied because many patients clearly benefit from their medicine or a change in medicine but without the actual push to do so do not benefit until the process is pushed along. I don't feel it is ethical to allow human beings to suffer in this manner while they wait for the courts to move the process along.*
- *Sometimes, patients are here months before an initial hearing.*
- *At VPCH we still usually have to wait about 28 days until we can even apply for meds, even after the person is committed.*
- *It's still a very, very long time to wait when someone is so very sick. It's almost torturous for all involved.*

Staff Recommendations

The primary recommendation offered by hospital staff was to speed up the legal process so that it takes much less time to obtain an Act 114 order. Comments ranged from general (e.g., "speed up the process") to specific strategies ("every patient should be seen by a judge within 7 days"). The following are quotes are representative of suggestions that went beyond shortening the time to receipt of court ordered medication:

- *Allow Court Ordered Medications for Community and Department of Correction Mental Health Services. Many patients once stabilized on medications tend to stop medications after discharge from inpatient treatment…Fund long term care facilities to manage difficult cases that have failed to thrive in Community Supported programs.*
- *I believe there should be some mandatory psychiatric training for judges who preside over these type of court hearings.*
- *Every involuntary patients should be seen by a judge asap or within 7 days of a psychiatric hold. At the hearing, the judge would decide if the patient requires involuntary treatment…The judge and attorneys should not have to spend time discussing standard of care, there are malpractice laws for that.*
- *Know that treatment can change, and the court order has to be flexible to respond to changes in patient condition.*
- *There needs to be some sort of tiered approach based on acuity and clinical picture. Or the patient should be able to complete a legal document while they are well to outline their wishes and it should be honored (as is with other patients with other chronic medical conditions).*
- *The process takes far too long, allowing people with psychosis to languish unnecessarily. I also note psychiatrists hesitating to pursue court ordered meds in the case that the criteria might not be met to warrant involuntary meds. This happens in cases where the patient is quite symptomatic of mental illness (psychosis/paranoia) and quality of life/placement options and sustainable recovery are impacted in a negative way, however they are not posing an immediate danger to themselves or others. This*

occurrence makes me think that the threshold for granting court ordered involuntary treatment is too low. The inability to give medications before this level of dangerousness is met prolongs the inevitable in many cases and contributes to the difficulty in treating psychosis related to the longevity of the distorted thinking before treatment is successful. Patients' loose months and months of their lives through this process. We need to re-examine the criteria for involuntary meds and employ a judge with expertise in psychiatry or appoint an informed advisor for the judge.

- *Involuntary medication & treatment should also include treatments & assessments which can directly impact the wellness and welfare of a patient (such as not allowing a patient to de-compensate (physically and mentally) to the point where their hygiene status puts the patient at an increased risk for skin breakdown, infection or pain as a direct result of the particular patient not allowing hands-on assistance with bathing, incontinence care, etc.) Perhaps it's time for the legislature to expand the scope of practice for free-standing psychiatric facilities to allow for the provision of more "hands on" care & assistance for patient's held in such facilities. Also, forensic patients vs non-forensic patients should be separated. I also think that if someone is subject to an order of involuntary medication & treatment regimen this also needs to include bloodwork & other appropriate diagnostics needed to safety continue pursuing a course of treatment. (Another rationale for this being that the patient in question has become so ill to the point where their physical health become seriously compromised that even being able to determine a complete comprehensive clinical picture has been seriously hindered to the point where providing safe, quality evidence-based care is being put into jeopardy) Also if a patient has been determined to be incompetent and therefore the subject of a court-ordered involuntary med/tx regimen they also need a guardian who will be willing to actively participate in the advocacy and treatment planning for a patient…I know of a situation where the pt's guardian of record won't take phone calls from VPCH Nursing and has essentially "ghosted" the pt and the process to get the pt covered under the VT Guardian Ad Litem program is delayed to the point of potentially causing the pt to be at an increased risk of harm. Simultaneously, any pt who is subject to court-ordered meds/tx needs to have their court-orders to include the timely transfer of pts to a facility that is nest equipped to appropriately care for the patient (and not just for short-term acute health status changes) but for those times where the patient not only requires a high degree of psychiatric care & supervision but the patient also requires a-lot of hands-on physical, custodial care & therefore more intense care/case management…and depending on the individual patient's presentation & current health status that could even mean transfer to a more appropriate facility outside of the State of Vermont.*

Input from Legal Services

This year, FSA reached out to gain feedback from Vermont Legal Aid Mental Health Law Project (MHLP) and the judiciary. MHLP provides legal representation to the vast majority of patients on whom applications to the court for Act 114 medication are filed. Judges sitting in Family Court hold hearings and rule on applications submitted by the four hospitals (Brattleboro Retreat, RRMC, UVMMC and VPCH) that administer Act 114 medication.

We received a response to our request for input from MHLP only. Our interview aimed to understand the following:

- What is going well in relation to implementation of Act 114?
- What could be done to improve the implementation of Act 114?
- What challenges, if any, exist in relation to implementation of Act 114?

Legal Services Input

Responding to the question of what is going well regarding Act 114 implementation, several things were mentioned. First, from MHLP's perspective, the number of cases seems to have decreased in the recent past. While MHLP provided no specific numbers at the time of the interview, their representative estimated a 25% reduction in applications over the past couple of years. (Our review of filings over the past few years verifies a steady decline in the number of cases in which applications for Act 114 orders have been filed.) From MHLP's point of view, that reduction in cases might indicate that doctors may not be rushing to file involuntary medication applications as in previous years.

Also, MHLP believes its legal representation has been effective in delivering positive outcomes for clients through continued advocacy aimed at influencing decisions by the court or the doctors around any/all of the following:

- Addressing the desires of patients by reducing medication dosages.
- Eliminating certain medications in order to avoid contraindications with other medications.
- Allowing an alternative method of medication administration that is amenable to the patient.

MHLP also noted that judges who hear these cases in all the courts around Vermont are diligent about learning the law and listening to arguments on both sides in order to make the right decision for the patient. As the courts are experiencing turnover now due to retirements, suggest that this is the time to provide training and education to judges newly assigned to these cases in order to positively impact court processing related to Act 114 cases.

While no specific challenges were identified, MHLP noted the impact that different physicians can have on how a case is dealt with. Just a change in the personality and or receptiveness of a doctor in any of the hospitals working with their clients can make a difference in outcomes for individuals hospitalized for mental health issues.

Review of Documentation

The Act 114 statute requires the Department of Mental Health to "develop and adopt by rule a strict protocol to ensure the health, safety, dignity and respect of patients subjected to administration of involuntary medications." VSH had in place a protocol and set of forms intended to guide its personnel in adhering to the protocol, including written, specific, step-by- step instructions that detailed what forms must be completed, by whom and when, and to whom copies were to be distributed. As other hospitals took on responsibility for administering medication under Act 114, they utilized the forms VSH had developed. Forms included:

1. Patient Information: Implementation of Nonemergency Involuntary Medication – completed once – includes information on the medication, potential side effects and whether patient wishes to have support person present.
2. Implementation of Court-Ordered Involuntary Medication – completed each time involuntary medication is administered in nonemergency situations – includes whether support person was requested and present, type and dosage of medication, and preferences for administration of injectable medications.
3. 7-Day Review of Nonemergency Involuntary Medications by Treating Physician – completed at 7-day intervals – includes information on dose and administration of current medication, effects and benefits, side effects, and whether continued implementation of the court order is needed.
4. Certificate of Need (CON) packet – completed anytime emergency Involuntary procedures (EIP), i.e., seclusion or restraint, are used. This form provides detailed guidelines for assessing and reporting the need for use of emergency involuntary procedures.
5. Support Person Letter – completed if a patient requests a support person be present at administration of medication.

As part of the VSH protocol discussed above, there was a requirement that each patient on court-ordered medication have a separate file folder maintained in Quality Management including:

1. Copy of court order.
2. Copy of Patient Information Form.
3. Copies of every Implementation of Court-Ordered Medication Form.
4. Copy of reviews.
5. Copies of Support Person Letter, if used.
6. Copies of CON, if needed.
7. Summary of medications based on court order.
8. Specific timeline of court order based on language of court order.

To assess the implementation of the Act 114 protocol, FSA reviewed each hospital's documentation for patients with Act 114 orders for whom the petition had been filed during FY22. Hospitals all use electronic records; staff from four hospitals (Retreat, RRMC, UVMMC and VPCH) provided electronic, redacted copies of Patient Information Forms, Implementation of Court-Ordered Medication Forms, and 7-Day Review Forms (or Progress Notes if review forms were not used), along with any CON documentation for review.

FSA reviewed forms completed by hospital staff for 39 persons with Act 114 applications filed and granted in FY22 (July 1, 2021, to June 30, 2022). This included patients from the Retreat (n = 15), RRMC (n = 9), UVMMC (n = 2), and VPCH (n = 13).

Patient Information Form

Patient Information forms were present for all 39 files reviewed. All Patient Information forms present were complete in terms of medication type, dose, and options for taking medication orally or by injection. All but one form (Retreat) included information about side effects of medication. Ten forms indicated that the patient did not want a support person; one form indicated that the patient did want a support person (a staff member at Retreat). Most forms (n=21) said the patient either was unable to or refused to discuss support. Seven forms left the items blank providing no information on patients' interest in support (Retreat = 4, RRMC = 3).

Patients signed three forms (Retreat = 1; RRMC = 2) and refused to sign 22. One form did not have patient signatures or an explanation (UVMMC). VPCH electronic form did not provide a place for patient signature.

The Patient Information Forms should be completed after receiving the court order and prior to the first administration of court- ordered nonemergency involuntary medication. Thus, the Patient Information Form should be dated on or after the order date. This was the case for all but three forms; one form from the Retreat and one from VPCH had been completed the day before the order, and one from RRMC was completed three days prior to the order.

In addition, the Patient Information form completion date should match or be at least one day prior to the date of the first Implementation of Court- Ordered Medication form. Patient Information Forms had been completed on the day of the order for 9 (23%) patients, one to four days later for 19 (49%), or longer for three patients. First administration forms were completed before the Information form for four patients (VPHC=3, Retreat =1).

Form for Implementation of Court-Ordered Medication

FSA examined the forms documenting the first three administrations of involuntary medication following the court order, and then the same forms documenting administration of medications at 30-day intervals following the court order. Of the 179 Implementation Forms reviewed, 135 (76%) were complete (see Table 8). The incomplete Retreat forms were most often missing information indicating whether the patient wanted a support person (n=32, 86%). The incomplete VPCH forms either were most often missing information about the need for a CON (see below).

Table 8: Number and Percent of Complete/Incomplete Implementation Forms

Hospital	Complete Forms		Incomplete Forms		Total	
	Frequency	Percent	Frequency	Percent	Frequency	Percent
Retreat	35	49%	37	51%	72	100%
RRMC	33	97%	1	3%	34	100%
UVM MC	8	100%	0	0%	8	100%
VPCH	60	92%	5	8%	65	100%
Total	135	76%	44	25%	179	100%

Certificate of Need (CON) Form

Forms also recorded whether a CON was needed for administration of medications. There were three cases indicating that a CON was needed but not included in the files (Retreat=1, VPCH=2). It wasn't clear if the forms were in the files but not present in the redacted copies used for this review.

7 Day Review of Nonemergency Involuntary Medications by Treating Physicians

A total of 172 Seven Day Reviews were examined. The Retreat provided a check-off list which included the three key features looked for in the reviews: effectiveness of medication, side effects, and whether there was a continued need. Data was not included in the case files to substantiate the checked boxes. RRMC provided progress notes to address these issues for cases earlier in the year, later in the year the progress notes were revised to include more detailed description of medication effect, side effects, and continued need. VPHC and UVMMC physicians used a 7 Day Review form that included these issues. When forms specifically included the three criteria, all reviewed documents were complete.

Perspective of Persons Receiving Involuntary Medication

Gaining Input

The FY 2022 annual independent study invited feedback, as legislatively mandated, from persons:

- to whom medication had been administered under an Act 114 court order during FY 2022
- on whom applications to the court for 114 medication were either dismissed or denied during FY 2022.

To encourage voluntary input from individuals fitting the above criteria, Mental Health Law Project has supported this assessment by mailing invitational materials both to:

- Individuals for whom an Act 114 application was filed and granted in the study year.
- Individuals for whom an Act 114 application was filed but not granted in the study year.

The following steps were used to engage individuals in this study:

- FSA designed a questionnaire and consent form for distribution to individuals whose application for Act 114 medication was either accepted or not accepted by the court *during* FY 2022. The questionnaire/consent form gave individuals the option of participating in a phone interview OR providing feedback on the questionnaire. The Vermont Legal Aid Mental Health Law Project (MHLP) mailed the questionnaire/consent form, with a letter about the study, to all persons fitting the above criteria *during* FY 2022.

- A stamped envelope addressed to FSA was included in the above mailing from MHLP, allowing individuals either to:

    - mail a completed the consent form and questionnaire, OR
    - mail a completed consent form, checking their preference for a phone interview and providing contact information for them to be reached by FSA.

Compensation of fifty dollars ($50.00) was offered and paid to those individuals who received a mailing from MHLP and chose to participate either by phone interview or completion of the questionnaire.

Focus of Input Desired

Following legislative guidance, the assessment pursued two lines of questioning: one for persons hospitalized and receiving an Act 114 medication order at some point between July 1, 2021 and June 30, 2022, at either the Brattleboro Retreat, RRMC, VPCH or UVM Medical Center and one for individuals whose applications for 114 medication from any of the above hospitals were either dismissed or denied by the courts.

The questions asked of persons who had received Act 114 medication orders during FY 2022 sought to understand:

- How the event of receiving court-ordered, nonemergency medication was experienced.
- To what extent the protocols identified in the statute were followed, and
- What recommendations they might have for improving the experience of receiving Act 114 medication.

Specific questions focused on understanding the extent to which the following provisions of Act 114 had been implemented examining:

- How well individuals were informed regarding how and why they would be receiving involuntary medication.
- Whether and how individuals were apprised of their rights to have a support person present and to file a grievance.
- Conditions and events leading up to, and then related to, the actual experience of receiving involuntary medication.

Additionally, people who received Act 114 orders during FY 2022 were asked to comment on:

- Their opinion, looking back, on the state's decision to order Act 114 medication.
- The most and least helpful aspects surrounding the experience of receiving court-ordered, non-emergency, involuntary medication.
- How the administration of Act 114 medication could be improved.

Persons on whom a submitted application was not accepted by the court were asked to:

- Describe what information they'd received, from whom, regarding the filed application.
- Provide their opinion about why the hospital had filed an application and why it had been denied or dismissed.
- Make recommendations for improving the process leading to administration of court-ordered, non-emergency, involuntary medication at the UVM Medical Center, Rutland Regional Medical Center, the Brattleboro Retreat, and the Vermont Psychiatric Care Hospital.

Number of Individuals Who Received Invitation Letters and Numbers Who Provided Feedback

During FY 2022, MHLP records indicate that Act 114 applications were submitted to the courts for 42 individuals. Of those:

- 38 applications were granted. MHLP sent letters and questionnaires to each of these individuals but 6 were returned through the mail, meaning 32 individuals who received Act 114 medication had an opportunity to respond.
- 4 applications submitted during the study period were dismissed or denied. MHLP sent letters and questionnaires to all four, however 1 was returned through the mail, leaving 3 individuals with the option of responding.

Table 9: Participants Providing Input as Proportion of All Persons with Act 114 Orders by Study Year

Year of Court Order	Persons Who Received 114 Court Orders		
	Number with Orders Issued in Designated Study Period	Number Providing Feedback Who Received Order in Study Period	Response Rate of Feedback
2003	14	1	1%
2004	27	6	22%
2005	13	4	31%
2006	22	4	18%
2007	18	2	1%
2008(1/1/08–11/30/09)	12	4	33%
2009 (7/1/08 -6/30/09)	19	3	16%
2010 (7/1/09 -6/30/10)	26	4	15%
2011 (7/1/10 – 6/30/11)	28	4	14%
2012 (7/1/11 – 6/30/12)	28	6	21%
2013 (7/1/12 – 6/30/13	32	4	13%
2014 (7/1/13 - 6/30/14	55	6	11%
2015 (7/1/14 - 6/30/15)	50	6	12%
2016 (7/1/15 - 6/30/16)	62	6	10%
2017 (7/1/16 - 6/30/17)	52	8	15%
2018 (7/1/17 - 6/30/18	67	7	10%[1]
2019 (7/1/18 - 6/30/19)	50	8	16%[2]
2020 (7/1/19 – 6/30/2020	44	4	9%[3]
2021 (7/1/20 – 6/30/2021)	42	4	10%[4]
2022 (7/1/21 – 6/30/22)	38	5	13%[5]

[1] Although 67 individuals received Act 114 orders during FY 18, 12 letters/questionnaires sent by MHLP were returned unopened. Of the fifty-five individuals who received the materials from MHLP, the seven who provided feedback represent a 13% response rate.

[2] Although 50 individuals received Act 114 orders during FY 19, only 44 individuals received letters (6 were returned to MHLP), raising the response rate amongst recipients to 18%.

[3] Although MHLP sent invitations to the 44 individuals in their records who had received at least 1 Act 114 order during FY 2020, 4 letters were returned raising the response rate amongst recipients to 10%.

[4] Although 42 individuals received Act 114 orders during FY 21, 7 letters/questionnaires sent by MHLP were returned unopened, and FSA received information that an additional letter was not received by a family member. Thus 34 individuals presumably received a letter and questionnaire inviting feedback, raising the response rate amongst actual recipients to 12%.

[5] Although 38 individuals received Act 114 orders during FY 22, 6 letters/questionnaires sent by MHLP were returned unopened, raising the response rate from those who received Act 114 medication to 16%.

People were asked in what hospital they received Act 114 medication during the study period. Some individuals reported receiving court ordered medication at more than one facility during FY 2022.

- No respondents reported receiving the medication during the study period at the Vermont Psychiatric Care Hospital (VPCH).
- One individual reported receiving the medication ordered at the Rutland Regional Medical Center.
- Two persons reported having received Act 114 medication at UVMMC.
- Four persons noted receiving the medication at the Brattleboro Retreat.

Feedback provided by the five persons who received Act 114 medications in FY 22
Respondents took the liberty to not only answer the forced choice questions but at times provided narrative responses to the open-ended questions. A selection of statements from written responses are quoted below.

<u>The reason for refusing to take medication.</u>
In response to the question "Yhy did you choose to not take medication voluntarily?" two of the five respondents believed they didn't need medication. Of those, one person elaborated, saying *"my mental health issues were cause by physical illness. Psych meds wouldn't help".*

Side effects were noted as another reason by three people who refused to voluntarily take medication.

And another person simply said, "*They won't explain in a way I would understand."*

<u>Information about the court hearing, the court order, the Act 114 protocols, and the right to file a grievance.</u>

Act 114 protocols stipulate individuals be given information about the upcoming court hearing and the subsequent court order. Of the five persons, two were unable to remember whether they were told an application for medication have been given to the court. Amongst the three others, one was informed both by his/her lawyer and doctor, one received information from the doctor only and one from *"other hospital staff"*. Two persons reported being told the date and time of the court hearing, three knew where the hearing would take place, but again, two individuals could not remember whether they'd received information about the hearing. Four of the five respondents did not attend the court hearing, while the fifth individual participated in the hearing electronically. Two people were told by their lawyer that the court had ordered Act 114 medication, and one learned this through their doctor. Of the remaining two respondents, one reported they were not told, and the fifth person reported not remembering being told.

Act 114 requires that individuals be given information about the prescribed medication being ordered, including its name, the dosage and frequency with which it would be administered, whether it would be given orally or by injection, the intended effect and the potential side effects and risks associated with taking it. One individual reported being told the name of the medication and whether it would be administered orally or by injection. Beyond that, one person said they only received information about the dose and another individual was told what the medication was supposed to do. The fifth person could not remember getting any information about the ordered medication.

Finally, people were asked if they knew about the Act 114 protocols that guide the administration of court-ordered involuntary medication and whether they were aware of their right to file a grievance. Two of the five respondents reported they did know about the protocols guiding administration of Act 114 orders – "*I was informed".* However only one person was aware of the right to file a grievance if they felt the protocol had been violated.

Treatment by staff during and after administration of involuntary medication
People were asked to comment on:

- What happened if they receive medication through injection?
- How they felt they were treated in general by staff around, during and after the administration of court-ordered medication.
- Concern that staff showed for a patient's interest in being afforded privacy when medication was being administered.
- Whether they were asked if they wanted a support person present when receiving medication, as stipulated in the protocols.
- Whether they were offered emotional support.
- Whether staff offered to help debrief them after administration of court-ordered medication.

Two individuals reported being willing to receive medication orally, and another two through injection (a fifth was unable to recall anything about receiving medication). However, responses indicate that at times four of the five respondents did receive injections. In all cases, people uniformly reported that when they received medication by injection, whether voluntarily or not, they were either not asked about preferences (i.e., where on their body they'd prefer to get the shot, what gender they'd prefer the person giving the shot to be, and when, if restrained, they were able to talk, drink eat and use the bathroom) or their wishes were not respected.

Individuals were asked how they would rate the privacy of the location in the hospital where Act 114 ordered medication was administered. Of the five responses, two said the location was private enough and one stated it was not private. Another person identified a specific location where they would have preferred receiving the medication, while the fifth person did not indicate a preference.

Responses were sought regarding how people were treated by staff in relation to the administration of the court- ordered medication. Answering the question about the extent to which people felt their health, safety and dignity were respected throughout the experience of receiving Act 114 medication:

- No one said they'd felt "fully respected"
- One person reported feeling "somewhat respected".

Three people said they were "not respected at all". Of those three individuals, one added "*They didn't acknowledge my health issues that the meds made me feel worse."*

Patients receiving Act 114 medication should be asked by staff if they would like a support person present when receiving medication. None of the five respondents said they were asked. Of those, two people reported that if they'd been asked they would have wanted a support person, while the remaining three said if asked they would not have requested anyone to support them.

The protocol also states that patients should receive offers from staff to debrief the experience of receiving involuntary medication and to receive emotional support. Only one individual said s/he'd received support *"from some staff".* No one reported that hospital staff had debriefed with them about their experience of receiving the medication.

Regarding the extent of force used to get people to take medication:
The questionnaire asked people to describe any ways in which they felt they had some control over the process of receiving court-ordered medication. Responses provided by each of the five individuals were mixed on this question and include the following:

"I was able to choose to take it orally."

"I voluntarily chose the shot over the pill."

"They would usually ask if I would take the pill and if I refused, they would force injection."

"[I had] no control at all."

"Never any control, always assigned time at med window."

What was most difficult and who or what was most helpful about the experience of receiving involuntary, court-ordered, non-emergency medication?

The question about what was most difficult revealed a variety of reactions. For two individuals, the effect of the medications on their body and mind was referenced as follows:

"The internal healing mechanisms in my body and mind were stopped and suppressed. I couldn't feel my feelings."

"Losing all control over my own body."

Three others commented on losses experienced, both of physical possessions and personal freedom.

"Having my clothes taken …"

"They took away my hospital information."

"Being stuck in a facility where you are required to share the bathroom with 8 to 13 other people, staff didn't clean bathroom between our shower or bath times."

Comments also described difficulties experienced as resulting from treatment by and/or attitude of staff.

"They were usually not very caring and they didn't respect my perspective."

"[A specific] doctor [was] argumentative, not helpful."

The experience of receiving medication was "physical torture."

In response to the question of what or who as most helpful during the experience of receiving Act 114 medication, the following comments were provided:

"The Soteria therapeutic community that helped me get out of the hospital and off the meds."

"The nurse who performed CPR and brought me back to life after some medicine didn't work out."

"A [psych] tech."

"Art therapy."

People were asked their opinion about whether the State had made the right decision in seeking an order for, and giving, the court-ordered, involuntary medication. One individual responded *"yes"*. Three others responded *"no"*. Of those, one person elaborated, saying:

"Psych meds mess with brain signals and sometimes take us off-line for weeks and staff says it's our fault."

Another who disagreed with the State's decision would have liked a *"choice of meds which I have taken elsewhere".*

Respondents were asked for their recommendations on ways to make improvements for people who are under court order to receive involuntary, court-ordered, non-emergency medication. One person suggested sending patients to locations outside of Vermont, saying that in prior hospitalizations *"I was allowed to go off grounds."*

The remaining four respondents provided the following ideas:

" Teach staff to truly listen to the patients, to work from a model of helping people express their feelings and heal in a deeper way, rather than being condescending…to take things a lot slower and be more observant."

"Allow those with Counterpoint to attend more often and NAMI as well…."

"You have to follow up with their PCP [Primary Care Provider] for allergies to medications and provide better choices of psych hospital. Staff would or should be alerted if brain trauma was administered by Vermont State Police (they bang heads)."

"Prevent [patients] from getting to that point by explaining that the only/fastest way to get out of the hospital is by taking the meds."

Finally, people were given an opportunity to provide additional thoughts beyond their responses to questions. Two individuals added input regarding the negative impact the ordered medication had.

"Once or twice, I was tricked into taking a new med by being told it was the old med. I only found out when I started collapsing to the ground from side effects."

"The med I ended up with had a side effect that bothered my arm muscle, I had to take an additional med for side effects. Later on another side effect med was added."

A final comment was a plea *"to make it understood physical harm shouldn't come to those that are different."*

Input from 1 individual on whom an application for 114 medication was not approved.
As stated at the beginning of this section, 1 of the 3 individuals in this category who received a questionnaire mailed from MHLP chose to respond. As medication was not ordered, our line of questioning sought to understand:

- The extent to which protocols for informing patients of the application process and hearing were followed.
- The person's understanding of why the application was not approved.
- What recommendations, if any, the individual has about how to improve the experience for persons on whom applications for 114 medication orders are filed, regardless of outcome.

The respondent in this category was admitted to the Brattleboro Retreat. S/he reports being informed that an application for Act 114 medication was filed by his/her lawyer, doctor and other hospital staff. Through those channels, s/he was given the date, time and location of the court hearing, and reported to have attended that hearing electronically (via phone or computer).

In answer to the question "why did you choose not to take medication voluntarily?" the individual answered simply that s/he is a *"political activist"*.

The respondent had no comment on ways to improve the experience for those awaiting a court decision on an application for Act 114 medication.

Key Findings Emerging from Interviews

Each year we remind readers that the finding should not be viewed as representative of all individuals who received Act 114 medication in FY 2022 (n=38) or for those whose applications were denied (n=4) because:

- The people who provide information do so voluntarily, i.e., they are self-selected.
- Our response numbers and rates are small (5 out of 32 recipients of medication orders and 1 out of 3 with denied/dismissed applications, who presumably received questionnaires in the mail).

Responses from the five individuals who were hospitalized and received Act 114 ordered medication at some point between July 1, 2021, and June 30, 2022, exhibited a pattern on the majority of questions, in which only one of the five respondents agreed with the state's decision to order medication and reported a more positive experience in terms of feeling respected and supported by staff. There is greater consistency amongst the four other respondents in their feelings that staff neither respected nor offered support to them around their choices and experiences of receiving Act 114 medication. While memory of events can be spotty for some individuals, three persons confirmed they were given information about hearings and medication from medical and/or legal staff.

Two major reasons, which have come up consistently in past studies, were given to explain the unwillingness to voluntarily take medication:

- A belief that medication was not needed because the person had been misdiagnosed as having a mental illness.
- A concern over the possible (or previously experienced) side effects brought on by the medication.

Finally, recommendations on ways DMH can improve conditions for persons ordered to take medication include a focus on providing:

- Staff training to developing listening and communication skills.
- Inclusion of peer support resources which lie outside the formal system.

Section 2: Outcomes from Implementation of Act 114

As part of earlier assessments, stakeholder input was used to identify a set of outcomes that would be expected with successful implementation of Act 114. These outcomes include:

- Hospital staff awareness of Act 114 provisions.
- Decreased length of time between hospital admission and filing petition for involuntary medication.
- Decreased length of stay at hospital for persons receiving involuntary medication.
- Reduced readmission rates and increased length of community stay for persons receiving involuntary medication.

In addition, persons currently living in the community were asked to describe the impact that receiving nonemergency involuntary medication had on their current lives and their engagement in treatment.

For FY22, achievement of outcomes was as follows:

- Staff awareness of Act 114: Documentation indicates that staff administering medications under Act 114 in FY22 were generally aware of the provisions as shown by documentation of adherence to most Act 114 provisions. Consistent with past reviews, documentation of whether the patient wanted a support person was the most common piece of information missing on the Implementation Form.
- Time between admission and petition: In FY22, 51% of Act 114 petitions were filed within 30 days of the date of hospital admission; 21% were filed 30-60 days after admission (see Table 10). This finding demonstrates that petitions continued to be filed in approximately the same period as in the past three years.

Table 10: Time (in days) Between Admission to Hospital and Filing Act 114 Petition

Time from Admission to Petition	**FY of petition filing (7/1 to 6/30)**							
	FY19		FY20		FY21		**FY22**	
	Freq	Percent	Freq	Percent	Freq	Percent	Freq	Percent
<30 days	34	52%	28	52%	34	61%	24	51%
30-60 days	20	31%	18	33%	12	21%	10	21%
61 - 180 days	7	11%	7	13%	7	13%	8	17%
181 - 365 days	2	3%	1	2%	1	2%	5	11%
>365 days	2	3%	0	0%	2	4%	0	0%
Total	65	100%	54	100%	56	100%	47	100%

In FY22, it took on average 61 days from admission to filing the Act 114 petition (see Table 11). Overall, it took about 80 days from admission to the Act 114 order. This represents a notable increase in time from the past five years in admission to filing the petition. It took on average 18 days from the date the petition was filed to the date an order was issued. This is a slight increase from past few years.

Table 11: Mean Time Delays between Steps in Act 114 Process
(Excluding cases in which petition filed more than 1 year after admission)

FY of Petition (7/1 t0 6/30)	Time (in days) from:					
	Admission to Filing Petition		Petition to Order		Admission to Order	
	Mean	*Std. Dev.*	Mean	*Std. Dev.*	Mean	*Std. Dev.*
2012	50.2	*35.1*	14.4	*6.8*	65.7	*35.0*
2013	57.6	*40.9*	13.4	*9.6*	66.7	*39.7*
2014	93.2	*107.4*	16.2	*8.1*	109.3	*109.4*
2015	64.9	*55.9*	15.9	*9.7*	81.1	*61.0*
2016	67.6	*61.4*	12.2	*6.9*	79.6	*63.0*
2017	51.2	*56.2*	11.0	*6.9*	62.1	*57.7*
2018	43.2	*49.5*	12.1	*11.9*	55.3	*50.3*
2019	40.7	*44.9*	15.3	*22.5*	55.9	*53.4*
2020	37.6	*39.0*	13.1	*14.0*	50.7	*44.8*
2021	33.8	*24.7*	12.5	*9.3*	46.3	*28.4*
2022	61.3	*67.3*	18.4	*23.1*	79.6	*75.1*

In past assessments, and again this year, hospital staff reported that time delays in the Act 114 process were often due to legal procedures. The first of these is separation of the commitment and Act 114 hearings. As shown in Table 12, in FY 22, 64% of Act 114 petitions had been filed prior to the commitment orders. Note that commitment order dates were not available for 11 patients.

Table 12: Time between Date of Commitment and Act 114 Petition Filing Date
(Excludes cases in which time was 1 year or more)

Petition filed:	FY19		FY20		FY21		FY22	
	Freq	Percent	Freq	Percent	Freq	Percent	Freq	Percent
Before commitment	16	30%	47	92%	30	75%	23	64%
Same day as commitment	0	0%	0	0%	0	0%	1	3%
Within 7 days of commitment	20	37%	1	2%	3	8%	8	22%
8 - 30 days following commitment	15	28%	1	2%	1	3%	0	0%
30+ days after commitment	3	6%	2	4%	6	15%	4	11%
Total	54	100%	51	100%	40	100%	36	100%

- Length of stay: Of the 47 individuals with an Act 114 petition filed in FY22, 45 (96%) were discharged from psychiatric inpatient care, on average, 115 days (approximately 4 months) after admission, and 67 days (about 2 months) after the Act 114 order was issued (see Table 13). This represents somewhat longer stays than over the past two years.

Table 13: Length of Stay for Patients under Act 114 Orders Who Were Discharged from Hospital
(Excludes cases in which time was 1 year or more)

FY Petition Filing (7/1 t0 6/30)	**Average Length of Stay (in days) from:**			
	Admission to Discharge		**Order to Discharge**	
	Mean	*Std. Dev.*	Mean	*Std. Dev.*
2012 (n=23)	128.1	*67.4*	63.5	*40.5*
2013 (n=21)	123.4	*41.3*	71.0	*38.9*
2014 (n=35)	154.7	*125.9*	85.8	*63.0*
2015 (n=45)	149.6	*87.9*	97.1	*69.6*
2016 (n=41)	152.8	*121.0*	58.9	*49.0*
2017 (n= 46)	122.4	*75.4*	68.9	*47.8*
2018 (n=65)	116.2	*80.7*	65.4	*63.2*
2019 (n=62)	126.0	*105.1*	66.2	*61.0*
2020 (n=48)	95.5	*55.3*	48.3	*41.7*
2021 (n=54)	91.4	*51.6*	45.6	*43.8*
2022 (n=42)	115.8	*65.6*	67.2	*64.4*

- Readmission Rates: Of the 47 patients who were discharged in FY22, 7 individuals (15%) had been readmitted at least once after the order by the time of this review.

Section 3: Steps to Achieve a Noncoercive Mental Health System

Flint Springs Associates (FSA) met with a member of the Department of Mental Health (DMH) leadership team to review steps DMH took during FY22 toward achieving a noncoercive mental health system. These include:

1. On January 1, 2019, Whole Person Care was implemented. This payment reform initiative focuses on person-centered care by guaranteeing the Designated Agencies (DA) a set monthly fee to provide more flexibility in the services. During FY22, DMH continued to track and monitor service volume to ensure that persons with greater needs are served. Quarterly, the data are entered into a scorecard and reviewed by DMH program staff, as well as made available to the public on DMH website. The scorecard is also shared with the Designated Agencies for their review.

2. As per legislation, DMH created the Mental Health Integration Council "for the purposes of helping to ensure that all sectors of the health care system actively participate in the State's principles for mental health integration established pursuant to statute and as envisioned in the Department of Mental Health's 2020 report "Vision 2030: A 10-Year Plan for an Integrated and Holistic System of Care." The guiding language includes integrating the mental health into the overall health care system and ensuring equal access to mental health care. The COVID-19 pandemic led to fewer meetings in FY22. The Council began to meet more frequently toward the end of FY22.

3. DMH secured legislative funding for the new 16-bed secure recovery residence in FY21. Planning for this facility continued in FY22. This new facility will provide an intermediate stepdown care option for persons who would otherwise not be eligible to discharge from an inpatient level of care. This timely transfer of persons to the right level of care when they need it supports the most efficient use of existing healthcare capacities and allows expenditures to accurately reflect the costs of services and care delivered. It also allows persons to be treated more consistently at the lowest appropriate level of care.

4. In April 2020, DMH and ADAP partnered to receive a SAMHSA grant that provided $2M in funding over 16 months to enhance services during the pandemic. These funds have been used for the provision of crisis intervention services, mental and substance use disorder treatment, and other related recovery supports for Vermonters impacted by the COVID-19 pandemic. During FY22 the funding enabled DMH to serve thousands of Vermonters, adding supportive group settings to the service system. Other services included Direct Service/Outreach, Mental Health Peer Supports, Mobile Crisis (Vans, Sensory Materials, and Go Bags, Renovations, and Technology).

5. The Brattleboro Retreat completed construction on 12 additional adult inpatient beds and the certificate of occupancy was granted on February 21, 2021. Staffing issues prevented the beds from coming online, in FY21, but were addressed in FY22; staffing is now complete and the beds up and running.

Section 4: Recommendations

Flint Springs Associates offers the following recommendations:

Hospital Practices

FSA recommends that staff at hospitals administering Act 114 medication continue efforts to help patients understand the reasoning behind the decision to seek an order for involuntary medication and to invest time in talking with patients about the process and available options.

To maintain clear records for documenting implementation of Act 114 in accordance with provisions of the statute, all hospitals have followed past FSA recommendations that each hospital maintain an electronic file or section within the electronic file for persons receiving medication under Act 114. This practice should continue.

Annual Act 114 Assessment

FSA recommends that the following steps continue to be used in future assessments of Act 114:

- Provide a financial incentive for the participation of individuals for whom Act 114 applications were filed in the study period.

- Given the similar content to assess the implementation of Act 114 protocols required by the legislature through two reports, one generated by DMH and the other by an external entity, the legislature should clarify the purpose of having an internal and external, independent report.